ORDER:

The writ petition has been filed for issuance of a Writ of certiorari calling for the records pertaining to the proceedings of respondent dated 31.3.2004 and to quash the same as illegal. arbitrary and violative of Articles 14 and 300A of the Constitution of India. A consequential direction is also sought to the respondents for payment of terminal benefits under VRS scheme forthwith to the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondent-Company.

The brief history of the case, as set out by the petitioner in the affidavit filed in support of the writ petition, is that the petitioner worked in various capacities in the respondent-company and while working so, he was issued with a charge-sheet on the ground of misconduct and misbehaviour. The petitioner submitted his explanation to all the charges on 21.1.2002. Thereafter, an enquiry officer was appointed and report was submitted.

Meanwhile, Government of Andhra Pradesh with a view to privatize all the units of Nizam Sugars Ltd. issued various G.Os. introducing V.R.S. Scheme. Pursuant to the same, the petitioner submitted his consent in October, 2002 opting for V.R.S., which was accepted by the respondent-company vide proceedings NS/EST, dated 31.10.2002 subject to the following conditions:

1. Production of No Dues Certificate
2. Certificate from Head of the Department/Functional Head at Head Office that he/she has satisfactorily completed all the assigned works; and
3. Outcome of any disciplinary proceedings such as criminal investigation/domestic enquiries pending against him/her.

After conclusion of the enquiry in the disciplinary proceedings, on being not satisfied with the explanation of the petitioner, final order dated 31.3.2004 has been passed imposing four cuts in the increments with cumulative effect and also with retrospective effect, which order has been under challenge in this writ petition.

But, during the course of hearing of the writ petition, when the court showed its disinclination to entertain the writ petition as there is a remedy of appeal provided under the relevant bye-laws/regulations of the respondent-company against the

order impugned in the writ petition, learned counsel for the petitioner submitted that the petitioner would like to avail the remedy of appeal before the appellate authority and he may be permitted to do so. However, he submits that though the offer of petitioner for voluntary retirement was accepted as early as on 31.10.2002, but the benefits pursuant to the said scheme were not paid and no valid reason, whatsoever, has been stated by the respondents. He states that the petitioner is

entitled to all the benefits pursuant to the said scheme along with interest at the rate of 6% per annum. In support of his contention, he relied on a judgment of this Court dated 2.11.2005 passed in W.P.No.12237 of 2005, wherein this Court ordered for payment of benefits under the VRS Scheme within a period of two months from the date of retirement together with simple interest @ 6% per annum.

On the other hand, learned Standing Counsel for respondent-company, submits that after filing of the writ petition, 50% of the amount due has been paid on 8.10.2005 and the respondents are prepared to pay the balance amount after deducting the amounts in implementation of the order impugned herein, as the very acceptance of the offer of the petitioner was subject to outcome of the disciplinary proceedings initiated against the petitioner.

In the present case, though proceedings were issued on 31.10.2002 accepting the offer of the petitioner under V.R.S. framed by the respondent-company and culmination of the disciplinary proceedings on passing of the final orders dated 31.3.2004, which are impugned herein, only 50% of the amount under the said scheme has been paid to the petitioner, and, that too, after filing of the writ petition, on 8.10.2005, and, no reasons have been stated

for withholding of the balance amount payable to the petitioner.

In view of the above, the writ petition is disposed of directing the respondents to pay the balance amount payable to the petitioner, after deducting the amount as ordered in the order impugned herein, within a period of two months from today, with simple interest at the rate of 6% from 31.3.2004.

It is made clear that this court has not gone into the validity of the order

impugned herein, in view of the submission of the learned counsel for the petitioner that the petitioner would like to avail the remedy of appeal available to him under the relevant guidelines/regulations against the order impugned herein, and, the appeal, if preferred by the petitioner herein, shall be entertained by the appellate authority and considered on its own merits without reference to the ground of limitation. It is further made clear that the amount to be withheld pursuant to the orders impugned herein from the balance benefits payable to the petitioner under the Voluntary Retirement Scheme shall be subject to the orders that may be passed in the appeal that may be preferred by the petitioner.

Subject to the above directions, the writ petition is disposed of. No costs.

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6.3.2006 **(R.SUBHASH REDDY, J.)**

MRR/VR